IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.8560 of 2007

Mr.Ramchandra Mahadev Yesare ..Petitioner

vs.

1. Mr.Ashok Mahadev Yesare
and others ...Respondents

Shri Rajesh B.Parab for petitioner.
Shri A.G.Toraskar for respondent no.1.

CORAM: S.C.DHARMADHIARI J.
5th December,2007

P.C.

1. While rejecting the petitioner's request for amendment of the written statement, the Trial Court has observed in paras 14 thus:

> "The defendant no.2 has filed written statement and has also denied all the above allegations of the plaintiff, therefore, at this stage whether the plaintiff proved that he is alone became a tenant or not of the suit premises is the matter of evidence. Hence here the said Gopal whether alive or not is not necessary to confirm or to add as a party defendant in this suit. The defendant no.2 can ask the question in the cross examination in respect of

Gopal to the plaintiff. Therefore, for this purpose it is not necessary for the defendant no.2 to amend his written statement as alleged in this notice. Hence, the present notice is devoid of substance and liable to be discharged. In the result, ..."

2. In the light of this clarification given by the Trial Court so also the statement made by Shri Toraskar appearing for the original plaintiffs that all questions pertaining to the said Gopal can be posed in the cross examination, I see no reason to itnerfere with the order under challenge. The observations of the Trial Court and statement before me sufficiently protect the rights of the petitioner. Petition is dismissed.

(S.C.DHARMADHIKARI J.)